

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE  
(PPA) PRODUCTS LIABILITY  
LITIGATION,

MDL NO. 1407

ORDER GRANTING DEFEN-  
DANTS'S MOTION TO STRIKE

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This document relates to:  
*Bobbie Rollins on behalf of*  
*Charlie Blakes v. Bayer,*  
*Corp., C03-3939*

This matter comes before the court on defendant Bayer Corp.'s Motion to Strike or, in the Alternative, to Dismiss the Severed Complaint of Bobbie Rollins on behalf of Charlie Blakes. Having reviewed the parties' briefing, the court finds and rules as follows.

On June 10, 2002, Charlie Blakes was named as one of multiple plaintiffs in a complaint filed in the Western District of Louisiana. An amended complaint was subsequently filed, substituting "Tanya Luckey on behalf of Charlie Blakes" for Blakes in the multi-plaintiff matter. After the case was transferred to this multi-district litigation, the court issued Case Management Order (CMO) 15, requiring plaintiffs involved in multi-plaintiff complaints to file individual severed complaints. The order made clear that plaintiffs were not to allege new facts, make new

1 claims, or add new defendants. CMO 15, ¶ (1)(A).

2 On June 27, 2003 plaintiff Luckey filed a severed complaint  
3 in response, which was assigned case number C03-1563. On Septem-  
4 ber 16, 2003, referencing the original multi-party complaint and  
5 CMO 15, Bobbie Rollins filed a "Second Amended Complaint" on  
6 behalf of Charlie Blakes. This document was given a new case  
7 number, C03-3939. On October 24, 2003 plaintiff Luckey's com-  
8 plaint was dismissed for failure to comply with court-ordered  
9 discovery.

10 Defendant now moves the court to strike or dismiss plaintiff  
11 Rollins' complaint. According to Bayer, Rollins does not have the  
12 authority to file a severed individual complaint under CMO 15, as  
13 he was not named as a plaintiff in the original multi-party  
14 complaint. Plaintiff does not dispute this. Instead, he claims  
15 that the "Second Amended Complaint" was "inadvertently" assigned  
16 the new case number, C03-3939, and that his case should be  
17 consolidated with plaintiff Luckey's case.

18 It is unclear to the court what legal effect, if any, the  
19 allegedly inadvertent case-number-assignment has on plaintiff's  
20 position. Undoubtedly counsel was (or should have been) aware of  
21 the "inadvertence," and could have taken steps at the time to  
22 correct the apparent error. What is clear for purposes of this  
23 motion, however, is that whatever the merits of a motion to  
24 consolidate, plaintiff Luckey's case has been dismissed. Consoli-  
25 dation, then, is not an option. The court therefore denies  
26 plaintiff's request that his case be consolidated with that of

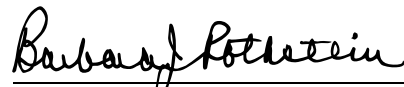
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1 plaintiff Luckey.

2 What is also clear is that plaintiff does not dispute  
3 Bayer's assertion that he had no authority to file his own  
4 individual complaint pursuant to CMO 15. The court therefore  
5 finds that the complaint is improper and hereby GRANTS defen-  
6 dant's motion to dismiss.

7 DATED at Seattle, Washington this 7th day of July, 2005.  
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10 BARBARA JACOBS ROTHSTEIN  
11 UNITED STATES DISTRICT JUDGE  
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